

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

PLANNED PARENTHOOD SOUTHWEST OHIO REGION, <i>et al.</i>,	:	
	:	
	:	
Plaintiffs,	:	Case No. 1:15-CV-568
	:	
v.	:	Judge Michael R. Barrett
	:	
STEPHANIE MCCLOUD,¹	:	
<i>In her official capacity as the Director</i>	:	
<i>of the Ohio Department of Health, et al.</i>	:	
	:	
Defendant.	:	

JOINT STATUS REPORT AND REQUEST FOR STATUS CONFERENCE

Per the Court's order staying this case, *see* Doc. 163, the parties met and conferred on June 9 regarding the status of this case. The parties were unable to agree on a proposed case schedule and request a status conference with the Court. The parties' proposals are briefly summarized below.

PLAINTIFFS' PROPOSAL

Plaintiffs propose the Court hold expert discovery as well as Plaintiffs' substantive due process and equal protection claims in abeyance and proceed with summary judgment briefing on Plaintiffs' procedural due process and nondelegation claims. Plaintiffs' substantive due process claims may be affected by two potential factual and legal developments. First, the legislature is considering substantive amendments to Ohio Rev. Code Ann. § 3702.304, one of the laws at issue

¹ Stephanie McCloud has been named the Director of the Ohio Department of Health and automatically substitutes as a defendant in this case. Fed. R. Civ. P. 25(d).

in this case, which, if passed, may take effect as soon as September 1, 2021. Second, this case may be impacted by *Dobbs v. Jackson Women's Health Organization*, No. 19-1392 (U.S. May 17, 2021), which will be argued in the U.S. Supreme Court while this case proceeds. This Court has previously stayed proceedings to await guidance from higher courts considering abortion restrictions, *see* No. 1:19-cv-00360, March 3, 2021, Order (staying matter pending final disposition of all appeals and petitions for certiorari in *Preterm-Cleveland v. Himes*, No. 18-3329 and *Memphis Ctr. for Reprod. Health v. Slatery*, No. 20-5969), and this Court may benefit from the *Jackson Women's Health* decision, to the extent it is applicable here, in ruling on the substantive due process claim in this case.

Therefore, in the interest of judicial economy, Plaintiffs propose proceeding with summary judgment briefing on Plaintiffs' procedural due process and nondelegation claims, neither of which will be affected by the potential factual and legal developments, while holding the rest of the case in abeyance. Plaintiffs propose the following dates:

- Plaintiffs' Motion for Summary Judgment—August 6, 2021
- Defendants' Opposition—August 27, 2021
- Plaintiffs' Reply—September 17, 2021

DEFENDANT'S PROPOSAL

Defendant proposes a schedule that approximates the most recent case schedules entered in this litigation, with approximately two months between expert reports, rebuttal reports, expert depositions, and motions for summary judgment. *See, e.g.*, Doc. 159, 161. Defendant opposes bifurcating any issues in this case. Defendant proposes the following dates:

- Parties' Initial Disclosure of Experts and Reports—October 1, 2021
- Parties' Exchange of Expert Rebuttal Reports—December 3, 2021

- Expert Discovery Cutoff—February 4, 2022
- Motions for Summary Judgment—April 1, 2022

Respectfully submitted,

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Ohio Attorney General

/s/B. Jessie Hill

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CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of June, 2021, I filed the foregoing electronically through the Court's CM/ECF system. Parties may access this filing through the Court's system.

/s/B. Jessie Hill

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